United States District Court
For the Northern District of California

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3   *E-filed 1/12/07*

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7   IN THE UNITED STATES DISTRICT COURT

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9   FOR THE NORTHERN DISTRICT OF CALIFORNIA

10   SAN JOSE DIVISION

11   STEPHEN LEAL,   Case No. C05-00959 JW

12   Plaintiff,   **ORDER DENYING PLAINTIFF'S
                                              MOTION TO COMPEL**
13   **PRODUCTION OF DOCUMENTS
                                              AND DENYING PLAINTIFF'S**
14   v.   **MOTION FOR ATTORNEY FEES**

     OFFICER K. SIEGEL, et al.,
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                                              Re: Docket No. 87
16   Defendants.
                                        /
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18   Plaintiff Stephen Leal brings this excessive force civil rights action against the City of

19   San Jose, the County of Santa Clara, and various law enforcement and correctional officers. He

20   claims that he was assaulted in the booking area of the county jail by several defendant officers,

21   and, as a result, sustained personal injuries. He also alleges that the officers attempted to cover

22   up their wrongdoing by misreporting the incident.

23   Plaintiff now moves to compel production of documents containing names of

24   individuals who previously filed complaints against the same officers involved in the present

25   matter. The motion is currently set for hearing on January 16, 2007, but the court now deems it

26   appropriate for determination without oral argument pursuant to Civil Local Rule 7-1(b).

27   The court heard plaintiff's first motion to compel on September 12, 2006. One of the

28   topics addressed in that motion was the production of documents pertaining to prior citizen

1   complaints against the defendant officers concerning use of force. After conducting an *in camera* review, the court ordered on October 3, 2006 that those citizen complaint files should be produced to plaintiff, but with "third-party names and identifying information redacted." Plaintiff now contends that the court did not intend that the names of complaining witnesses would be redacted, and seeks an order compelling defendants to supply those names.

6   Plaintiff wishes to know the names of the civilians who complained about officer behavior so that he can interview them and develop evidence to better support his contention that the poor treatment he allegedly received is part of a larger pattern of misconduct. Plaintiff argues that the court intended only to protect the privacy of third parties such as officers who are not involved in the current litigation, not the privacy of complaining witnesses. He argues in the alternative that, even if the court originally intended for complaining witness names to be redacted, the court should reconsider and allow plaintiff to know the names and addresses of previous arrestees assaulted in the booking area by the same officers.

14   Plaintiff's characterization of the court's intent is mistaken. The court did intend to approve redaction of complaining witness names. The privacy rights of those people, who are not parties or witnesses in the present matter, outweigh plaintiff's desire to track them down and interview them. To the extent that plaintiff seeks reconsideration of the court's earlier order, such a request is both procedurally and substantively deficient. See Civil Local Rule 7-9(a)-(b).

19   Finally, the court denies plaintiff's request for attorney fees as unmerited and procedurally defective. See Civil Local Rules 7-8 and 37-3.

22   **IT IS SO ORDERED.**

24   Dated: 1/12/07   /s/ Howard R. Lloyd
                                                        HOWARD R. LLOYD
                                                        UNITED STATES MAGISTRATE JUDGE

THIS IS TO CERTIFY THAT A COPY OF THIS ORDER WILL BE ELECTRONICALLY MAILED TO:

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Counsel are responsible for transmitting this order to co-counsel who have not signed up for e-filing.

Dated: 1/12/07   /s/ JMM
                                              Chambers of Magistrate Judge Howard R. Lloyd

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